

Remarks

Claim 1 has been amended and claims 2-6 have been cancelled, leaving only the single claim 1 for the Examiner's further consideration.

Claim 1 as amended describes the first channel (28) as "throughout its length being substantially straight and parallel to said first and third legs to facilitate the downward insertion of the lower edge portion of the cap into said first channel". Unless the channel (28) is substantially straight throughout its length, the lower edge portion of the cap can be inserted, if at all, only with great difficulty.

The principal reference against claim 1 is the patent to Priolo, 3,076,242. This patent relates to a clothes pin and has nothing whatever to do with a clip for holding pencils on a wearer's cap. The slot 19 of the clothes pin in Priolo, while not intended to receive an edge portion of a cap, is the only part of the clothes pin which is even remotely similar to the applicant's channel (28). This slot 19 of Priolo is not substantially straight and in fact is sharply curved as seen in the drawings. This curved configuration of the slot 19 in Priolo is important enough to be part of Priolo's claim 1 which, in column 2 of the patent beginning at line 52, defines this slot as "extending longitudinally within the second arm and curved to communicate with the opening adjacent the outer end thereof". The other slot 16 in Priolo is also defined in claim 1 as "curved to communicate with the termination of the opening".

Since the curvature of Priolo's slots is important enough to be claimed, any straightening of either slot would run counter to Priolo's disclosure.

Simpson 5,867,874 was combined with Priolo in the rejection of claims 1 and 2 with the comment that it would be obvious to use Priolo's clothes pin to hold a pencil on a cap, in view of Simpson. Applicant respectfully disagrees and submits that there is nothing in Simpson to suggest using Priolo's clothes pin as a pencil

November 23, 2004

holder. Regarding the limitation that applicant's clips "have barbs adapted to grip and hold the lower edge portion of the cap", Simpson does not have barbs, but merely has a protrusion 12 where the cap is inserted. In any event, it is hard to see how adding even a protrusion to the slot 19 in Priolo would in anyway enhance the function of Priolo's device as a clothes pin. Simpson does show ribs 14 on the legs 10 and 13, but these are to grip the pencil, not the cap.

Simpson does indeed disclose a pencil holding clip, but it is submitted that it is anything but obvious to combine the disclosure of a pencil holding clip with a clothes pin to build an anticipation. Nothing in Simpson suggests using a clothes pin to hold a pencil on a cap.

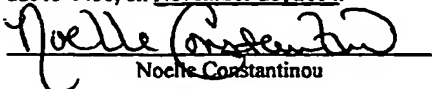
Parveris 5,555,607 shows a retaining device for a power cord or an appliance cord. However, the device of Parveris is generally quite different from Priolo and could not readily be combined with Priolo. Parveris lacks two upwardly opening channels as claimed by applicant and could not be attached to a cap. Nothing in Parveris would suggest its use as a clothes pin or a clip for holding a pencil on a cap.

It is noted that these three references are classified in three different sub-classes, as they should be in view of their substantially different uses, suggesting that they should not be combined.

The Commissioner is hereby authorized to charge any fees or credit any overpayment in connection with this communication to our Deposit Account No. 50-0852. A duplicate copy of this sheet is enclosed.

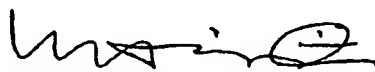
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on November 23, 2004.


Noelle Constantinou

Respectfully submitted,

REISING, ETHINGTON,
BARNES, KISSELLE, P.C.



William H. Griffith Reg. No. 16,706
P.O. Box 4390
Troy, Michigan 48099-4390
(248) 689-3500